

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DOUGLAS S. BROWN, STEPHEN)	
KAWELTI and JAMES A. PROSSNER,)	
)	
Plaintiffs,)	
)	
v.)	05-10713-PBS
)	
BANK OF AMERICA, N.A.,)	
)	
Defendant.)	

**PLAINTIFFS' UNOPPOSED MOTION FOR
EXTENSION OF THE DISCOVERY CUT-OFF**

Plaintiffs, Douglas Brown, Stephen Kawelti and James Prossner, request that this Court extend the discovery cut-offs set in this case by 90 days. In support of this motion, plaintiffs state as follows:

1. On March 1, 2006, this Court held a scheduling conference, at which the following discovery deadlines were set:
 - a. September 30, 2006: Fact Discovery Cut-Off
 - b. October 30, 2006: Plaintiffs' Expert Designation
 - c. November 30, 2006: Defendant's Expert Designation
 - d. December 31, 2006: Expert Discovery Deadline
 - e. January 31, 2007: Summary Judgment Deadline
 - f. February 28, 2007: Oppositions to Summary Judgment Due
 - g. April 17, 2007 at 2:00 p.m.: Summary Judgment Hearing/ Pretrial
2. On March 24, 2006, defendant filed a motion for summary judgment on several issues, which is set for hearing on September 7, 2006 at 3:30 p.m.

3. During the briefing of the summary judgment motion, defendant informed plaintiffs' counsel that a class settlement had been reached in a California case, *Hazelaar v. Bank of America*, Case No. CGC 03-420622, which would cover all of plaintiffs' claims in the present case.

4. Plaintiffs have filed a motion to intervene in the *Hazelaar* case, and they plan to object to the settlement reached in that case as being inadequate. Plaintiffs believe the *Hazelaar* case can eventually be removed pursuant to CAFA, and transferred to this Court as part of the MDL. There is a hearing scheduled on plaintiffs' motion to intervene on October 11, 2006.

5. The settlement of the *Hazelaar* case, if approved, would drastically change the scope of discovery required in the present case. For example, class discovery would no longer be necessary, as the class members' claims would have been released as part of the settlement.

6. In addition, discovery has been delayed due to the need to enter a confidentiality order. A confidentiality order was just entered on August 18, 2006, and plaintiffs just received production of the documents defendant agreed to produce. Once the documents are reviewed, there are some objections to discovery requests that need to be addressed, along with depositions.

WHEREFORE, plaintiffs request that this Court extend the discovery cut-offs set in this case by 90 days.

Respectfully submitted,

s/Cathleen M. Combs
Cathleen M. Combs
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX)

Christopher M. Lefebvre
CLAUDE LEFEBVRE, P.C.
Two Dexter Street
Pawtucket, RI 02860
(401) 728-6060
(401) 728-6534 (FAX)
B.B.O. # 629056

RULE 7.1 (a)(2) CERTIFICATION

I hereby certify that I have conferred with counsel regarding the issues raised in this Motion and certify that defendant has no objection to the motion.

s/Cathleen M. Combs
Cathleen M. Combs

CERTIFICATE OF SERVICE

I, Cathleen M. Combs, hereby certify that on August 22, 2006, hereby certify that on August 22, 2006, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

E. Macey Russell, P.C.
Choate, Hall & Stewart, LLP

William L. Stern (pro hac)

Rebekah Kaufman (pro hac)
Morrison & Foerster LLP

s/Cathleen M. Combs
Cathleen M. Combs